

REMARKS

Reconsideration of this application, in view of the following remarks, is respectfully requested.

I Status Of The Claims

It is acknowledged that claims 26, 34, and 35 would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. Claim 21 has been amended to incorporate the limitation of claim 34. Accordingly claim 34 has been canceled. Claim 22 has been amended, as requested by the examiner, to recite correct Markush terminology. Claim 35 has been amended depend from claim 21, and to recite “MgH₂-5at.%V”, thereby correcting a typographical error. The amendments to claims 22 and 35 are not narrowing amendments, and have not been made for reasons related to patentability. Support for the amendments may be found, for example, at page 5, line 13, and at page 8, lines 9-10 of the English translation of International Application No. PCT/CA00/00865 filed on February 15, 2002. No new matter has been added.

Claims 21-33 and 35-40 are currently pending in this application and at issue.

I Claim Objections

Claim 22 has been objected to because of informality.

Claim 22 has been amended, as requested by the Examiner to recite “and” instead of “or.” Applicants submit that claim 22 is in correct Markush format, and respectfully request that the objection to claim 22 be withdrawn.

II Claim Rejections Under 35 U.S.C. § 102

Claims 21-25, 27-32, and 36-40 have been rejected under 35 U.S.C. § 102(b) as anticipated by Hong *et al.* (U.S. Patent No. 5,552,246, “Hong”). The Examiner asserts that Hong discloses a metal hydride strip for the reversible storage of hydrogen, in which the strip is made by

rolling a metal hydride powder along with an additive onto a substrate and subsequently heating the substrate to a temperature of 200-1100 C under an inert atmosphere (see col. 5, line 57 to col. 6, line 67). The Examiner asserts that there is no difference between the presently claimed piece and the disclosure of Hong.

This rejection is respectfully traversed.

Claim 21 has been amended to incorporate the limitation of claim 34. Claim 21 therefore requires that the powder of the at least one metal hydride is nanocrystalline.

Anticipation requires that each and every element of the rejected claim be disclosed in a single prior art reference. See, M.P.E.P. § 2131. Every element of the claimed invention must be literally present, arranged as in the claim. *Perkin Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Examiner concedes, at page 3, section 7 of the Office Action, that the prior art does not disclose or suggest that the metal hydride is nanocrystalline, as required by the present claims.

In view of the above amendments, applicants submit that claims 21-25, 27-32, and 36-40 are not anticipated by Hong, and that the rejection under 35 U.S.C. § 102(b) has been overcome. Withdrawal of the rejection is respectfully requested.

III Claim Rejections Under 35 U.S.C. § 103

Claim 33 has been rejected under 35 U.S.C. § 103(a) as obvious over Hong. The Examiner asserts that even though Hong does not disclose the thickness of the metal hydride strip, it would have been an obvious matter of design choice to select a thickness less than or equal to 1 mm, since a change in size is generally recognized to be within the level of ordinary skill in the art.

This rejection is respectfully traversed.

Claim 33 depends from claim 21, and therefore includes all the limitations of claim 21. Claim 33 therefore calls for the powder (of the at least one metal hydride) to be nanocrystalline.

The Examiner concedes that the prior art does not disclose or suggest that the metal hydride is nanocrystalline. Accordingly, claim 33 is not obvious over the prior art. Applicants respectfully request that the rejection of claim 33 be withdrawn.

In view of the above arguments, the pending claims in this application are believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to enter this Amendment, and to pass this application to issue.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

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